

Invitation for Bids
Novell Software Reseller
PROJECT NO. 050R4800407



Department of Budget and Management
Office of the Secretary
Division of Policy Analysis

Issue Date: August 17, 2004

NOTICE

Prospective bidders who have received this document from the Department of Budget and Management's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the IFB or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

STATE OF MARYLAND NOTICE TO BIDDERS

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to submit a bid on this contract, please e-mail (rhowells@dbm.state.md.us) or fax (410-974-3274) this completed form to the attention of Mr. Robert Howells. Thank you for your assistance.

Title: Novell Software Reseller
Project No: 050R4800407

If you have responded with a "no bid", please indicate the reason(s) below:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with Maryland Government is simply too complicated.
(Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the bid/proposals is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposals requirements (other than specifications) are unreasonable or too risky.
(Explain in REMARKS section.)
- ☐ MBE requirements. (Explain in REMARKS section.)
- ☐ Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory.
(Explain in REMARKS section.)
- ☐ Payment schedule too slow.
- ☐ Other: _____

2. If you have submitted a bid, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS: _____

Bidder Name: _____ Date _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND Invitation For Bids

NOVELL SOFTWARE RESELLER

PROJECT NUMBER 050R4800407

IFB Issue Date: August 17, 2004

IFB Issuing Office: Department of Budget and Management
Office of the Secretary
Division of Policy Analysis

Procurement Officer: Robert W. Howells
Phone: (410) 260-7747
Fax: (410) 974-3274
e-mail: rhowells@dbm.state.md.us

Procurement Method: Competitive Sealed Bidding (COMAR 21.05.02)

Contract Term: On or about December 1, 2004 through November 30, 2006,
with two (2) two-year renewal options

Pre-Bid Conference: August 27, 2004, 10:00 AM (Local Time)
Department of Budget and Management
45 Calvert Street – Room 427A
Annapolis, Maryland 21401
For directions see Attachment F, or call Robert W. Howells

Bids are to be sent to: Department of Budget and Management
Procurement Unit - Room 111
45 Calvert Street
Annapolis, MD 21401
Attention: Robert W. Howells

Closing Date and Time: September 8, 2004 at 2:00 PM (Local Time)

NOTE: Prospective bidders who have received this document from the Department of Budget and Management's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the IFB or other communications can be sent to them. Contact the Procurement Officer to obtain an electronic file of the IFB in Microsoft software.

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SECTION 1 - GENERAL INFORMATION

1) Summary Statement

The Department of Budget and Management (DBM) is seeking a contractor to serve as a reseller of Novell software products and related services at a firm fixed percentage discount off the applicable Novell List Price.

DBM has a statewide Novell Master License Agreement (MLA) that expires November 30, 2004. DBM intends to establish a new statewide MLA to be effective December 1, 2004. The purpose of this solicitation is to procure competitively a reseller that is authorized to sell all Novell software products via the MLA, in addition to any other Novell Licensing Agreement, i.e., Volume Licensing Agreement (VLA) or Corporate Licensing Agreement (CLA).

DBM intends to make a single contract award as a result of this IFB.

2) Abbreviations and Definitions

For the purposes of this IFB, the following abbreviations and terms have the meanings indicated below:

- a) **Bidder** – An entity that submits a bid in response to this IFB.
- b) **BPW** – The Maryland Board of Public Works
- c) **CLA** – Novell Corporate License Agreement
- d) **Contract Manager** - The State representative that will serve as the technical manager for the contract that results from this IFB. The Contract Manager monitors the daily activities of the contract and provides technical guidance to the contractor.
- e) **Contractor's Contract Administrator** – Person designated at the time of contract award as the single point of contact with the authority and knowledge to resolve contract issues.
- f) **COMAR** - Code of Maryland Regulations
- g) **Contract** – The State's Contract attached to this IFB as Attachment A.
- h) **Contractor** – The selected Bidder, the business entity awarded the contract for the procured services identified in this IFB.
- i) **Customer** – Any agency, office, institution or political subdivision permitted by the State of Maryland to participate in this contract.
- j) **DBM** – The Maryland Department of Budget and Management
- k) **Discount Price** – The actual price to be paid by the customer. The Discount Price is calculated by 1) multiplying the contractor's firm fixed unit price (percentage discount) by the Novell List Price for the specified product to be purchased to determine the Discount Value, and 2) subtracting the Discount Value from the Novell List Price. For example:
 - i) If the Novell List Price is \$100 and the firm fixed unit price (percentage discount) is 45%, then
 - ii) the Discount Value is (100×0.45) \$45, and
 - iii) the Discount Price is $(\$100 - \$45)$ \$55.
- l) **Discount Value** – Results from multiplying the contractor's firm fixed unit price (percentage discount) by the Novell List Price for the specified product to be purchased.
- m) **IFB** – The entire contents of this Invitation For Bids, "Novell Software Reseller", Project #050R4800407, including any amendments/addenda thereto.
- n) **Local Time** – Time in the Eastern Time Zone as observed by the State.

- o) **MBE** - Minority Business Enterprise certified by the Maryland Department of Transportation.
- p) **MLA** – Novell Master License Agreement
- q) **Novell List Price** – The List Price is established by Novell and is the price for the respective Novell products & services available at Novell’s website at <http://www.novell.com/licensing/price.html> and is subject to change by Novell. This List Price is the basis for establishing the Discount Price.
- r) **Procurement Officer** – The State representative who is responsible for this IFB and for the determination of contract scope issues; also the only State representative who can authorize changes to the contract.
- s) **VLA** – Novell Volume License Agreement

3) **Contract Type**

The contract that results from this IFB will be an Indefinite Quantity Contract with Firm Fixed Unit Prices, in accordance with COMAR 21.06.03.02 and 21.06.03.06.

4) **Contract Duration**

The Contract resulting from this IFB shall be for a period of approximately two (2) years commencing on or about December 1, 2004 and terminating on November 30, 2006. The State, at its sole option, shall have the unilateral right to extend the contract for up to two (2) additional, two-year renewal option periods.

5) **Procurement Officer and Contract Manager**

- A. The sole point-of-contact in the State for purposes of this IFB prior to the award of a contract is the Procurement Officer as listed below:

Robert W. Howells, Procurement Officer
 Department of Budget and Management
 Division of Policy Analysis, Procurement Unit
 45 Calvert Street/First Floor, Room 111
 Annapolis, Maryland 21401
 Telephone: 410-260-7747
 Fax: 410-974-3274
 Email: rhowells@dbm.state.md.us

DBM may change the Procurement Officer at any time by written notice to the Contractor.

- B. The State’s Contract Manager manages the daily activities of the contract and provides technical guidance to the Contractor. The State’s Contract Manager for this project is:

Louis V. LaRicci, Contract Manager
 Assistant Director
 Contracts & Project Management Division
 Office of Information Technology
 Department of Budget and Management
 45 Calvert Street
 Annapolis, Maryland 21401
 Telephone: 410-260-7178
 Fax: 410-974-5615
 Email: llaricci@dbm.state.md.us

DBM may change the Contract Manager at any time by written notice to the Contractor.

6) Pre-Bid Conference

A Pre-Bid Conference (Conference) will be held on August 27, 2004, beginning at 10:00 am (Local time), at the following location:

45 Calvert Street, Room 427A
Annapolis, MD 21401.

Attendance at the Pre-Bid Conference is not mandatory, but all interested bidders are encouraged to attend in order to facilitate better preparation of their bids. In addition, attendance may facilitate the bidder's understanding of the IFB requirements.

As promptly as is feasible subsequent to the Conference, a summary of the Pre-Bid Conference and all questions and answers known at that time will be distributed, free of charge, to all prospective bidders known to have received a copy of this IFB.

In order to assure adequate seating and other accommodations at the Pre-Bid Conference, it is requested that by August 26, 2004, all potential bidders planning to attend return the Pre-Bid Conference Response Form (Attachment E to this IFB) or call Robert W. Howells, the Procurement Officer at (410) 260-7747 with such notice. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation.

7) Questions

The Procurement Officer, prior to the Pre-Bid Conference, will accept written questions from prospective bidders. To the extent possible and as appropriate, such questions will be answered at the Pre-Bid Conference. (No substantive question(s) will be answered prior to the Pre-Bid Conference.) Questions may be submitted by mail, facsimile, or preferably by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective bidders attending the Pre-Bid Conference. To the extent possible and as appropriate, these questions will be answered at the Pre-Bid Conference.

Questions will also be accepted subsequent to the Pre-Bid Conference. All post-Conference questions should be submitted in a timely manner to the Procurement Officer only. The Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be provided before the bid due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all prospective bidders who are known to have received a copy of the IFB.

8) Bids Due/Closing Date

An unbound original and two (2) copies of each bid must be received by the Procurement Officer, at the address listed in Section 1.5) A., no later than **September 8, 2004, at 2:00 pm, Local Time**, in order to be considered. Requests for extension of this date or time shall not be granted. Bidders mailing bids should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, bids received by the Procurement Officer after the closing time and date will not be considered. Bids delivered by email or facsimile shall not be considered.

Bids will be opened in Room 427A, 45 Calvert Street, Annapolis Maryland in accordance with the provisions of COMAR 21.05.02.11B. Bids will be made available for public inspection at or within a reasonable time after bid opening. Any material deemed confidential or proprietary by the bidder must be clearly marked and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid.

9) Duration of Bid

Bids submitted in response to this IFB are irrevocable for 90 days following the closing date. This period may be extended at the Procurement Officer's request only with the bidder's written consent.

10) Revisions to the IFB

If it becomes necessary to revise this IFB, amendments will be provided to all prospective bidders that were sent this IFB or otherwise are known by the Procurement Officer to have obtained this IFB. Acknowledgement of the receipt of all amendments to the IFB must accompany the bidder's bid. Failure to acknowledge receipt does not relieve the bidder from complying with all terms of any such amendment.

11) Cancellations; Discussions

The State reserves the right to cancel this IFB and to accept or reject any and all bids, in whole or in part, received in response to this IFB.

12) Incurred Expenses

The State will not be responsible for any costs incurred by a bidder in preparing and submitting a bid, or in performing any other activities relative to this solicitation.

13) Economy of Preparation

Bids should be prepared simply and economically, providing a straightforward, concise description of the bidder's compliance to the requirements of this IFB.

14) Protests/Disputes

Any protest or dispute related respectively to this IFB or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

15) Multiple or Alternate Bids

A bidder may not submit more than one bid. Multiple or alternate bids will not be accepted.

16) Access to Public Records Act Notice

A bidder should give specific attention to the clear identification of those portions of its bid that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Title 10, Subtitle 6, of the State Government Article of the Annotated Code of Maryland. Bidders are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information may be disclosed (see COMAR 21.05.08.01).

17) Bidder Responsibilities

The State will enter into contractual agreement only with the selected bidder. The selected bidder/Contractor shall be responsible for all products and services required by this IFB. Subcontractors, if any, must be identified and a complete description of their role relative to the bid must be included in the bid. If a bidder that seeks to perform or provide the services required by this IFB is a subsidiary of another entity, all information submitted by the bidder, such as, but not limited to, references and financial reports, must pertain exclusively to the bidder, unless the parent organization will provide guarantees for the performance of the subsidiary.

18) Mandatory Contractual Terms

By submitting a bid in response to this IFB, a bidder, if selected for award, shall be deemed to have accepted the terms of this IFB and any amendments thereto, and the State's Contract, attached as Attachment A.

19) Bid/Proposal Affidavit

A completed Bid/Proposal Affidavit shall accompany the bid submitted by a bidder. A copy of this Affidavit is included as Attachment B of this IFB.

20) Contract Affidavit

All bidders are advised that if a contract is awarded as a result of this IFB, the successful bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this IFB. This Affidavit need not be submitted with a bidder's bid but shall be provided within five (5) business days of notification of proposed contract award.

21) Arrearages

By submitting a response to this solicitation, the bidder represents that it is not in arrears in the payment of any obligations due to the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this contract if selected for the contract award.

22) Procurement Method

This contract will be awarded in accordance with the Competitive Sealed Bidding procurement method as described in Maryland Code of Regulations (COMAR) 21.05.02.

23) Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident bidders in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible bidder whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this IFB is in another state submits the most favorable bid price; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice, gives to its residents.

24) No Bid Statement

Vendors not responding to this solicitation are requested to submit the "Notice to Bidders" form, which includes company information and the reason for not responding (i.e. too busy, can not

meet mandatory requirements, etc). This form is located in the IFB immediately following the Title Page.

25) Award Basis

The State reserves the right to award the contract to the responsive and responsible bidder submitting the most favorable bid price for providing the goods and services as specified in this IFB. The most favorable bid price will be based on the highest “Total Composite Percentage (%) Discount” provided in Attachment D-Bid Price Instructions & Form, Table 3 (D3).

26) Verification of Registration and Tax Payment

Before a corporation can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore Maryland 21201. It is strongly recommended that any potential bidder complete registration prior to the due date for receipt of bids. A bidder’s failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful bidder from final consideration and recommendation for contract award.

27) False Statements

Bidders are advised that Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland provides as follows:

- (a) In connection with a procurement contract a person may not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of a material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.

A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

28) Use of “e-Maryland Marketplace”

“e-Maryland Marketplace” is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM web site (<http://www.dbm.state.md.us>) and other means for transmitting this IFB and associated materials, the solicitation and minutes of the Pre-Bid Conference, bidder questions and DBM responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

This means that all such information is immediately available to subscribers to e-Maryland Marketplace. Because of the instant access afforded by e-Maryland Marketplace, it is recommended that all bidders interested in doing business with Maryland State agencies subscribe to e-Maryland Marketplace.

Depending on the desired level of service, the annual subscription costs are \$150 or \$225. Information, including on-line subscription access, can be obtained at the e-Maryland Marketplace website at <http://www.emarylandmarketplace.com/about.cfm>.

29) Non-Visual Access

By submitting a bid in response to this IFB, the bidder warrants that the information technology offered under the bid: (1) will provide equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Bidder further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent. For purposes of this warranty, the phrase "equivalent access" means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input, and synthesized speech, Braille, or other audible or tactile means used for output. (Reference COMAR 21.05.08.050)

30) Electronic Funds Transfer

By submitting a response to this IFB, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected bidder/Contractor must register using the form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form (Attachment G). Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at the following URL: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>.

31) Contract Extended to Include Other Non-State Governments or Agencies

Maryland county, municipal, and other non-state governments or agencies may purchase from the contractor products or services covered by this contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies: (1) shall constitute contracts between the contractor and that government or agency; (2) shall not constitute purchases by the State or State agencies under this contract; (3) shall not be binding or enforceable against the State, and (5) may be subject to other terms and conditions agreed to by the contractor and the purchaser. The contractor bears the risk of determining whether or not a government or agency with which the contractor is dealing is a State agency.

SECTION 2 – DESCRIPTION OF REQUIRED SERVICES AND DELIVERABLES

1) Scope Of Services And Specifications

The Department of Budget and Management (DBM) is seeking a contractor to serve as a reseller of Novell software products and related services at a firm fixed percentage discount off the applicable Novell List Price.

DBM has a statewide Novell Master License Agreement (MLA) that expires November 30, 2004. DBM intends to establish a new statewide MLA to be effective December 1, 2004. The purpose of this solicitation is to procure competitively a reseller that is authorized to sell all Novell software products via the MLA, in addition to any other Novell Licensing Agreement, i.e., Volume Licensing Agreement (VLA) or Corporate Licensing Agreement (CLA).

2) Technical Specifications

- a) The contractor shall assign and maintain throughout the duration of this contract, a Contract Administrator that is knowledgeable in the management and administration of the applicable Novell Licensing Agreements and can resolve issues pertaining to this contract. The name, address, telephone & fax numbers and email address of this individual shall be provided to the Contract Manager at the time of contract award. Any change to the Contract Administrator shall be provided to the Contract Manager at least five (5) business days before the effective date of the change for approval by DBM.
- b) The contractor shall provide all sales, support, management and reporting services necessary to process and account for customer requests for and sales of Novell software products.
- c) The contractor shall ensure that all orders submitted to Novell are accurate and contain all required data.
- d) The contractor shall provide at contract award, and maintain during the life of the contract, Internet Web pages that shall provide customer access to product and contract information to include:
 - i) Product Number
 - ii) Product Name
 - iii) Novell List Price (see Section 1.2).q)
 - iv) Percentage Discount
 - v) Discount Price
 - vi) Membership Forms and Procedures
 - vii) Contact Information
 - viii) An “Announcement & Information Page” to include the most recent contractor announcements and any information requested by DBM. This page shall include an information form developed by the contractor that identifies the specific information needed by the contractor to respond to a specific request with accurate contract and price information
 - ix) A product number or a keyword search engine (requiring minimum mouse clicks)

- x) A feature to allow downloads and printing of the entire price list, as well as pricing information for individual items or groups of items, in addition to all forms and procedures
 - xi) A clear display of the last date the website was updated
- e) The contractor shall provide guidance and information about the customers' rights and responsibilities pertaining to the Novell licensing programs as needed. The contractor shall respond directly and efficiently to inquiries concerning such topics as the term of the applicable licensing agreement, services or products provided, how to complete the membership process, etc.
 - f) The contractor shall process all Novell membership forms within one (1) business day after receipt.
 - g) The contractor shall receive requests for quotes and purchase orders from customers in a written format, including email and facsimile transmissions.
 - h) The contractor shall provide a response to requests for information or price quotes within one (1) business day after receipt of the request. All price quotes shall be in writing, including email and facsimile transmission, and include the applicable Novell List Price, percentage discount and discount price for each product or service requested. The % discounts stated on Attachment D "Bid Price Form" are the minimum % discounts that the State will accept and the maximum prices that the State will pay. The contractor's price quote may reflect prices that are more favorable to the State. The contractor's price quote shall remain valid for a minimum of 30 calendar days from the date of the quote.
 - i) Upon acceptance of the quote, the customer will submit a purchase order to the contractor via facsimile transmission. Any decreases in the Novell List Price within 30 calendar days after the date of the quote shall be provided to the customer when processing the purchase order.
 - j) The contractor shall process the purchase order to Novell within three (3) business days after receipt of the order.
 - k) The contractor shall provide an electronic "Order Confirmation Report" via email in an MS Excel format, or other format acceptable to the State, within five (5) business days after receipt of each order to the contact indicated on the order. This report shall include:
 - i) Novell Agreement Number
 - ii) Customer's Membership Number
 - iii) Customer's Name
 - iv) Customer's Purchase Order Number
 - v) Date Purchase Order Received by Contractor
 - vi) Date Purchase Order Provided to Novell
 - vii) Novell Product Number
 - viii) Novell Product Name/Description
 - ix) Novell List Price
 - x) Language and/or Version Number
 - xi) Term of coverage (e.g., Maintenance)

- xii) Quantity Ordered
 - xiii) Contractor's Discount Value
 - xiv) Contractor's Discount Price
- l) The contractor shall provide an electronic "Reconciliation Report", via email in an MS Excel format, or other format acceptable to the State, and any required reconciliation assistance, to the customer's contact within ten (10) business days after receipt of confirmation from Novell. The Reconciliation Report shall include:
- i) Customer's Purchase Order Number
 - ii) Corresponding Novell License Number
- m) The contractor shall provide an electronic "Monthly Activity Report" to the Contract Manager in an MS Excel format, or other format acceptable to the State, by the 15th day of the following month that includes:
- i) Novell Agreement Number
 - ii) Monthly Reporting Period
 - iii) Customer's Name
 - iv) Customer's Membership Number
 - v) Customer's Purchase Order Number
 - vi) Customer's Contact Name, Address, Telephone/Fax Numbers & email address
 - vii) Date Purchase Order Received by Contractor
 - viii) Date Purchase Order Provided to Novell
 - ix) Novell Product Number
 - x) Novell Product Name/Description
 - xi) Novell List Price
 - xii) Novell License Number
 - xiii) Quantity Ordered
 - xiv) Contractor's Discount Value
 - xv) Contractor's Discount Price
- n) The contractor shall accept all unopened, damaged, or defective software products returned by the customer for full credit or refund, at the discretion of the customer, to include all costs. The contractor shall not charge restocking fees.
- o) All shipments by the contractor shall include a packing list that identifies the items shipped, quantities, purchase order number and contract number. All packages shall have the purchase order number clearly marked on the outside. Shipments received by the State without a packing list and/or purchase order number shown on the outside of the package may be refused and returned at the contractor's expense.
- p) All items shall be delivered F.O.B. destination. The contractor shall be responsible for any loss and/or damages before receipt of shipment by the State. All delivery instructions shall be designated on purchase orders, which may call for delivery to either a loading dock or a designated inside location. If delivery instructions are not included on a purchase order prior to shipping, the contractor shall contact the customer's point-of-contact for delivery instructions.

- q) Invoices shall be in accordance with the State's Contract and itemized to separate the price being charged to the State of the individual Novell products. Invoices submitted without clear, concise, readable, definitive information will be returned for clarification, and may delay payment. Invoices shall include the contractor's Federal Employer Identification Number (FEIN) and the State's purchase order number. Invoices shall only be issued upon complete delivery of the items described in this IFB. Partial payments are not permitted.
- r) The contractor shall maintain Novell's authorization to provide the products and services described in this solicitation for the duration of the contract. The State reserves the right to require the contractor to provide updates/supplements of any financial information, certifications, insurance, affidavits and/or other documentation and/or assurances required to be given to the State under this IFB and/or the subsequent contract and the State may exercise this right from time to time when and as often as it deems appropriate to protect the interests of the State in its sole and absolute subjective discretion.

SECTION 3 – BID FORMAT

1) Bid Format

- a) Bidders must use and complete the Bid Price Instructions & Form, Attachment D. Do not change or alter this Attachment. Do not alter any State Attachments.
- b) Bidders agree to comply with each and every section, subsection and addendum of this solicitation. Failure to comply will result in the rejection of the bid.
- c) Bidders must provide return procedures for products that are damaged, deemed defective during shipment or incorrectly ordered.
- d) Bidders must specifically acknowledge the receipt of all amendments/addenda to the IFB, if any.
- e) Additional Required Submissions
 - i) Bid/Proposal Affidavit - Attachment B
 - ii) Statement of Fiscal Integrity - Section 3.4) a)
 - iii) Legal Action Summary - Section 3.4) b)
 - iv) Certificate of Insurance - Section 3.4) c)
 - v) References – Section 3.5)
 - vi) Novell Authorization – Section 3.6)

2) Preparation of Bids Submission

- a) Bidders must submit an unbound original and two (2) copies of their bid. An electronic version (diskette or CD) in MS Word format, or a format acceptable to the State, must be enclosed with the bid. The diskettes or CD's shall be clearly labeled with the Date, Bid Title and bidder name and packaged with the original copy of the bid.
- b) Bids must be submitted in a sealed envelope clearly labeled as follows:
 - i) “Sealed Bid - Maryland Department of Budget & Management, Novell Software Reseller, Project #050R4800407”
 - ii) the Bid Due Date and Time; and
 - iii) the Name of the bidder.
- c) Bids must be submitted to the Procurement Officer identified in Section 1.5) A.
- d) Bids must be delivered on time, on or before the due date and time specified in Section 1.8).

3) Authorized Signature

An individual who is authorized to bind the bidder to the services and prices contained in this bid must sign the authorized signature block in Attachment D.

4) Financial Capabilities And Insurance

The bidder shall include the following:

- a) Statement of Fiscal Integrity:
Bidders shall provide documentation that addresses the bidder's financial solvency that may include, but not be limited to, one or all of the following:
 - i) a current balance sheet
 - ii) a certified financial statement
 - iii) Dunn and Bradstreet rating;
 - iv) Line of credit;
 - v) Successful financial track record; and/or
 - vi) Evidence of adequate working capital.
- b) A Legal Action Summary:
A statement as to whether there are any outstanding legal actions or potential claims against the bidder and a brief description of any such action.
 - i) A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
 - ii) A description of any judgments against the bidder within the past five (5) years, including the case name, number, court, and what the final ruling or determination was from the court.
 - iii) In instances where litigation is ongoing and the bidder has been directed by the court not to disclose information, the name of the judge and location of the court.
- c) A copy of the bidder's current certificate of General Liability insurance which, at a minimum, should contain the following:
 - i) Carrier (name and address)
 - ii) Type of insurance
 - iii) Amount of coverage
 - iv) Period covered by insurance
 - v) Exclusions

5) References

Bidders should provide references from three (3) current and/or previous customers who are capable of documenting experience in providing the same or similar services to other firms, agencies or governmental units. Each reference shall include:

- a) Name of client organization.
- b) Name, title, and telephone number of point of contact for client organization.
- c) Value, type, and duration of contract(s), the services provided, scope of the contract, geographic area supported and performance objectives being satisfied.
- d) An explanation of why the bidder is no longer providing the services to the client organization, if the bidder is no longer serving this client.

DBM reserves the right to request additional references and conduct performance background checks on the bidder selected for contract award.

6) Novell Authorization

Bidders must provide a letter of confirmation from Novell that clearly states the bidder's authorization and capability to perform the requirements of this solicitation.

ATTACHMENTS

ATTACHMENT A - The State's Contract

(Provided with the IFB for informational purposes and is not required at bid submission time. However, it must be completed, signed and returned by the selected Bidder to the Procurement Officer upon notification of proposed contract award.)

ATTACHMENT B - Bid/Proposal Affidavit

(This form must be completed and submitted with the Bid)

ATTACHMENT C - Contract Affidavit

(This form is not required at bid submission time. It must be completed and submitted by the selected Bidder to the Procurement Officer within five (5) business days of notification of proposed contract award)

ATTACHMENT D - Bid Price Instructions and Form

(The form must be completed and submitted with the Bid)

ATTACHMENT E - Pre-Bid Conference Response Form.

(It is requested that this form be completed and submitted as described in Section 1.6) by those potential bidders who plan to attend the conference.)

ATTACHMENT F – Directions to the Pre-Bid Conference

ATTACHMENT G - Vendor Electronic Funds (EFT) Registration Request Form

ATTACHMENT A – Contract

THIS CONTRACT is made this _____ day of _____, 2004 by and between _____ and the **STATE OF MARYLAND**, acting through the **DEPARTMENT OF BUDGET AND MANAGEMENT, OFFICE OF POLICY ANALYSIS**.

IN CONSIDERATION of the premises and the covenants herein contained, the parties agree as follows:

1 Definitions

In this Contract, the following words have the meanings indicated:

- 1.1** “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.2** “Department” means the Department of Budget and Management.
- 1.3** “Effective Date” means the date on which the State signs and executes this contract.
- 1.4** “Procurement Officer” means Robert W. Howells.
- 1.5** “IFB” means the Invitation for Bids for Novell Software Reseller, Project No. 050R4800407.
- 1.6** “State” means the State of Maryland.

2 Scope of Work

2.1 The Contractor shall provide software, maintenance and other services as described in the IFB. These services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A - Invitation for Bids -Project No. 050R4800407
Exhibit B - Contractor’s Bid

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3 Time for Performance.

The term of this Contract commences on the Effective Date of the Contract and expires two (2) years after the Effective Date of the Contract. The State, at its sole option, shall have the unilateral right to extend the contract for two (2) additional successive two-year terms.

4 Consideration and Payment

4.1 The consideration for Novell products and services provided by the Contractor shall be the payment of the Discount Price as described in the IFB. Payments will be made no later than thirty (30) days after acceptance as described in the IFB. Each invoice must include the Contractor's Federal Tax Identification Number which is _____. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited. Invoices should be submitted to the individual or office designated on the respective purchase order.

4.2 Except with the express written consent of the Procurement Officer, payment to the Contractor pursuant to this Contract shall not exceed \$_____. Contractor shall notify the Contract Manager, in writing, at least 60 days before payments reach the specified amount. After notification by the Contractor, if the State fails to increase the contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount.

4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

5 Rights to Records

The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, solely for purposes of this Contract with the State of Maryland shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

6 Patents, Copyrights, Intellectual Property

6.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

6.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, copyright, or trade secret. If a third party claims that a Product infringes that party's patent or copyright, the Contractor will defend the Agency against that claim at Contractor's expense and

will pay all damages, costs and attorney fees that a Court finally awards, provided the Agency (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations.

6.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

7 Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law.

8 Liability

For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:

- A. For infringement of patents, trademarks, copyrights or trade secrets, as provided in section 6 of this Contract; and
- B. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, the Contractor's liability shall be limited to the consideration paid for the software.

9 Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under State Government Article, 15-102, Annotated Code of Maryland, whose duties as such official or employee includes matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

10 Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute or regulation, the Contractor must file a written

notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

11 Maryland Law

11.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

11.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or the software licenses acquired hereunder.

12 Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

13 Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.

14 Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State of Maryland from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

15 Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written

notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

16 Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

17 Delays and Extensions of Time

The Contractor agrees to perform this agreement continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

18 Suspension of Work

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

19 Pre-Existing Regulations

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

20 Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that

enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

21 Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Sections 14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

22 Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section.

23 Warranties

The Contractor hereby represents and warrants that:

- A. It has such rights, title and interests to the software that are consistent with its obligations to the State under this Contract. The State's use of the software will not infringe on the intellectual property rights of any person or entity.
- B. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- C. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- D. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- E. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

24 Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its bid or offer, was inaccurate, incomplete, or not current.

25 Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer.

26 Administrative

26.1 Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the Procurement Officer. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

26.2 Notices. All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State: Department of Budget and Management
Procurement Office, Room 111
45 Calvert Street
Annapolis, Maryland 21401
Attention: Robert W. Howells

If to the Contractor: _____

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

**MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT**

By: _____ Date: _____

By: _____ Date: _____

Witness: _____

Witness: _____

Approved for form and legal sufficiency this _____ day of _____, 2004.

Assistant Attorney General

Approved by the Board of Public Works: _____ Date: _____ BPW Item # _____

ATTACHMENT B—Bid/Proposal Affidavit

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title] _____

and the duly authorized representative of [business] _____

_____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows [indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business]:

C. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

- (a) been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
 - (b) been convicted of any criminal violation of a state or federal antitrust statute;
 - (c) been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§1961, et seq., or the Mail Fraud Act, 18 U.S.C. §§1341, et seq., for acts arising out of the submission of bids or proposals for a public or private contract;
 - (d) been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
 - (e) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (a), (b), (c), or (d) above;
 - (f) been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
 - (g) admitted in writing or under oath, during the course of an official investigation or other proceeding, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, except as follows [indicate reasons why the affirmation cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment]:
-
-

D. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows [list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds for the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds for the debarment or suspension]:

E. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

1. The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
2. The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows [indicate the reason(s) why the affirmations cannot be given without qualification]:

F. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

G. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

1. Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
2. In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price of the bidder or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

H. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

I. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§ 14-101 – 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

J. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

1. Terms defined in COMAR 21.11.08 shall have the same meaning when used in this certification.
2. By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;

- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by § 2(b), above;
- (h) Notify its employees in the statement required by § 2(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the Contract Officer within 10 days after receiving notice under 2(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under § 2(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §§ 2(a) - (j), above.

3. If the business is an individual, the individual shall certify and agree as set forth in § 4, below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

4. I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under, COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.06.

K. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic ____) (foreign ____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

[If not applicable, so state].

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

L. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the contractor to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson or commercial selling agency, any fee or other consideration contingent on the making of this agreement.

M. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposals shall be construed to supersede, amend, modify, or waive, on behalf of the State of Maryland or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms, and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____

(Authorized Representative and Affiant)

ATTACHMENT C - Contract Affidavit

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the _____
(title)

and the duly authorized representative of

(business)

and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic _____) (foreign _____) corporation registered in accordance with Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessment and Taxation is:

Name: _____

Address: _____

(2) Except as validly contested, the business has paid, or has arranged for payment of , all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposals Affidavit dated_____, 20____, and executed by me for the purposed of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DATE:_____

BY:_____
(Signature)

(Authorized Representative and Affidavit)

ATTACHMENT D - Bid Price Instructions & Form

1. In order to assist bidders in the preparation of their bids and to comply with the requirements of this solicitation, Attachment D - Bid Price Instructions & Form, Tables 1 through 3 have been prepared. Bidders must submit their bids on this Form in accordance with the instructions on the form and as specified herein.
2. The Bid Price Form is to be completed, signed and dated by an individual who is authorized to bind the bidder to all firm fixed unit prices (percentage discounts) offered. Enter all information in the spaces provided.
3. Bidders shall record the respective firm fixed unit prices (percentage discount) to be applied to the Novell List Price for Standard Products & Services (Table 1) and Technical Services (Table 2) for each referenced type of Novell License Agreement.
4. For evaluation purposes, the percentage discount (%) to be applied to the Novell List Price in Tables 1 and 2 for:
 - a. MLA products & services will be weighted 80.00%,
 - b. VLA products & services will be weighted 15.00%,
 - c. and CLA products & services will be weighted 5.00%.
5. For evaluation purposes, the Composite Percentage (%) Discount in Table 1 (D4) will be weighted 80% and the Composite Percentage (%) Discount in Table 2 (D4) will be weighted 20% in Table 3. The bidder with the highest "Total Composite Percentage (%) Discount" in Table 3 (D3) will be selected for recommendation for award.
6. All criteria included in this form are for price evaluation purposes only. The State reserves the right, at its sole discretion, to purchase in different quantities than those referenced in the bid price form. The State reserves the right, at its sole discretion, not to purchase any product or service provided under this IFB.
7. Bidders are required to record the firm fixed unit prices (percentage discounts) for each listed element. Where appropriate, calculate the extended price and compute a total.
 - a. All firm fixed unit/extended prices (percentage discounts) must be clearly typed or written in ink with two (2) decimal places, e.g., 45.23%.
 - b. All firm fixed unit prices (percentage discounts) must be the actual minimum percentage reductions that will be applied to any item on the Novell List Price and may not be contingent on any other factor or condition in any manner.
 - c. Except as instructed on the form, nothing shall be entered on the form that alters or proposes conditions or contingencies on the firm fixed unit prices (percentage discounts).
8. Bidders must record the required information on each Table as follows:
 - a. **Table 1 - % Discount for Standard Products & Services**
Column A identifies the type of Novell Agreement. Enter the % Discount for each type of Agreement in Column B. **A % Discount must be entered for each type of Agreement.** Column C identifies the Weight assigned for evaluation purposes to each type of Agreement. In Column D enter the results of multiplying the % Discount entered in Column B by the Weight identified in Column C. Add the results entered in Column D1, D2 & D3 and record in D4-Composite % Discount for Standard Products & Services.
 - b. **Table 2 - % Discount for Technical Services**
Column A identifies the type of Novell Agreement. Enter the % Discount for each type of

Agreement in Column B. **A % Discount must be entered for each type of Agreement.** Column C identifies the Weight assigned for evaluation purposes to each type of Agreement. In Column D enter the results of multiplying the % Discount entered in Column B by the Weight identified in Column C. Add the results entered in Column D1, D2 & D3 and record in D4-Composite % Discount for Technical Services.

c. **Table 3 – Total Composite % Discount**

This Table is provided for the summation of the Composite % Discounts entered in Tables 1 and 2 for each type of Agreement.

Column A identifies the respective Table to which the information entered in Column B pertains. Enter the Composite % Discount that was recorded in Table 1, D4 in Column B, B1. Enter the Composite % Discount that was recorded in Table 2, D4 in Column B, B2. Column C identifies the Weight assigned for evaluation purposes to each Table. In Column D enter the results of multiplying the Composite % Discount entered in Column B by the Weight identified in Column C. Add the results entered in Column D1 & D2 and record in D3-Total Composite % Discount.

9. It is imperative that the firm fixed unit prices (percentage discounts) included on Attachment D are entered correctly and calculated accurately by the bidder and that the respective totals agree with the entries on the forms. Any incorrect entries or inaccurate calculations by the bidder will be treated as provided in COMAR 21.05.02.12.

For example purposes only:

Table 1: Standard Products & Services

(A) Type of Agreement	(B) % Discount	(C) Weight	(D) = (B x C)
1) MLA	45.67%	80.00%	36.54%
2) VLA	35.04%	15.00%	5.26%
3) CLA	41.58%	5.00%	2.08%
4) Composite % Discount (D1 + D2 + D3)		Record in → Table 3, B1	43.88%

Table 2: Technical Services

(A) Type of Agreement	(B) % Discount	(C) Weight	(D) = (B x C)
1) MLA	10.01%	80.00%	8.01%
2) VLA	4.08%	15.00%	0.61%
3) CLA	4.90%	5.00%	0.25%
4) Composite % Discount (D1 + D2 + D3)		Record in → Table 3, B2	8.87%

Table 3: Total Composite % Discount

	(B) Composite % Discount	(C) Weight	(D) = (B x C)
1) Table 1 (D4)	43.88%	80.00%	35.10%
2) Table 2 (D4)	8.87%	20.00%	1.77%
3) Total Composite % Discount (D1 + D2)			<u>36.87%</u> <u>(Basis of Award)</u>

ATTACHMENT D - Bid Price Instructions & Form

The Authorized Signature block must be signed by an individual who is authorized to bind the Bidder to all statements, including services and prices, contained in the bid.

Table 1: Standard Products & Services

(A) Type of Agreement	(B) % Discount	(C) Weight	(D) = (B x C)
1) MLA		80.00%	
2) VLA		15.00%	
3) CLA		5.00%	
4) Composite % Discount (D1 + D2 + D3)		Record in → Table 3, B1	

Table 2: Technical Services

(A) Type of Agreement	(B) % Discount	(C) Weight	(D) = (B x C)
1) MLA		80.00%	
2) VLA		15.00%	
3) CLA		5.00%	
4) Composite % Discount (D1 + D2 + D3)		Record in → Table 3, B2	

Table 3: Total Composite % Discount

	(B) Composite % Discount	(C) Weight	(D) = (B x C)
1) Table 1 (D4)		80%	
2) Table 2 (D4)		20%	
3) Total Composite % Discount (D1 + D2)			(BASIS OF AWARD)

AUTHORIZED SIGNATURE

TITLE

TYPED NAME OF AUTHORIZED SIGNATURE FEDERAL EMPLOYER IDENTIFICATION #

NAME OF BIDDER (COMPANY)

ADDRESS

PHONE NO.

FAX NO.

DATE

ATTACHMENT E - Pre-Bid Conference Response Form

Project No. 050R4800407
Project Title: Novell Software Reseller

A Pre-bid Conference will be held at **10:00 AM (Local Time), on August 27, 2004, at:**
Department of Budget & Management
45 Calvert Street, Room 427A
Annapolis, MD 21401

For directions to the meeting site, See Attachment F-Directions to the Pre-Bid Conference
or you may contact Robert W. Howells at 410-260-7747.

Please e-mail, Fax or return this form by 4:00 pm on August 26, 2004 advising whether or not
you plan to attend this Conference. Return this form to the Procurement Officer:

Robert W. Howells
Department of Budget & Management
Procurement Unit, Room #111
45 Calvert Street
Annapolis, MD 21401
Phone: (410) 260-7747
Fax # (410) 974-3274
e-mail: rhowells@dbm.state.md.us

Please indicate:

_____ **Yes, the following representatives will be in attendance:**

- 1.
- 2.
- 3.

_____ **No, we will not be in attendance.**

Company/Firm/Vendor Name

Telephone

Signature

Title

ATTACHMENT F - Directions To Pre-Bid Conference

Department of Budget & Management
Office of Policy Analysis, Procurement Unit
45 Calvert Street, Annapolis, MD

From points North of Annapolis: Take I-97 South towards Annapolis/Bay Bridge. Take the US-50 East/US-301 North exit towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points South and West of Annapolis: Take US-50 East/US-301 North towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points East of Annapolis: Take US-50 West towards Annapolis. Take Exit #24A (Rowe Blvd/MD-70 South) towards Annapolis/State Offices. Continue on Rowe Blvd through three (3) lights. After crossing the College Creek Bridge, turn Right at the fourth (4th) light onto Calvert Street. The first building on the right is 45 Calvert Street.

PARKING: There is on-street metered parking along Calvert Street. There is a parking garage on Clay Street, which is the first street on the right immediately past the 45 Calvert Street State Office Building. There is also a parking garage on the left side of Calvert Street just past the 45 Calvert Street State Office Building. Parking is limited so allow adequate time to find parking.

ATTACHMENT G - Electronic Funds Transfer (EFT) Form

State of Maryland

Comptroller of Maryland

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code:

--	--	--	--	--	--

--	--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number:

--	--

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(or) Social Security Number:

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Business contact name, title, and phone number including area code. (And address if different from above).

Financial institution information:

Name and address _____

Contact name and phone number (include area code) _____

ABA number:

--	--	--	--	--	--	--	--	--	--

Account number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Account type:

--

Checking

--

Money Market

A VOIDED CHECK from the bank account must be attached.

Transaction requested:

1. ___ Initiate all disbursements via EFT to the above account.
2. ___ Discontinue disbursements via EFT, effective _____
3. ___ Change the bank account to above information – a copy of the approved Registration Form for the previous bank account must be attached.

I am authorized by *_____ (hereinafter Company) to make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller, or chief financial officer and date

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____/_____/_____

State Treasurer's Office approval date

General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request. Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to: EFT Registration, General Accounting Division
Room 205, P.O. Box 746
Annapolis, Maryland 21404-0746

COT/GAD X-10